**IN THE NATIONAL COMPANY LAW TRIBUNAL**
**KOLKATA BENCH, COURT - I**
**KOLKATA**

I.A. No. 1211/KB/2025
In
CP(IB) No. 129/KB/2025

*A petition under **section 7** of the Insolvency and Bankruptcy Code, 2016, read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016*

***In the matter of:***

**UCO Bank**

***.....Financial Creditor***

*Versus*

**Nicco Uco Alliance Credit Limited**

***.... Corporate Debtor***

**I.A. No. 1211/KB/2025**

*An Application under **Rule 11** of the National Company Law Tribunal Rules, 2016*

**Nicco Uco Alliance Credit Limited**

***.... Applicant***

*Versus*

**UCO Bank**

***....Respondent***

**Date of pronouncement of order: 18.12.2025**

***Coram:***

**Smt Bidisha Banerjee : Member (Judicial)**

**Cmde Siddharth Mishra : Member (Technical)**

***Appearances (via video conferencing/ physical):***

For the Financial Creditor:
Mr. Sailesh Mishra, Adv.

For the Corporate Debtor :
Mr. Swatarup Banerjee, Adv.
Mr. Aditya Gooptu, Adv.

**ORDER**

**Per : Bidisha Banerjee, Member (Judicial)**

**1.** This Court convened through hybrid mode.

**2.** We have heard learned Counsels at length.

**3.** This Company Petition has been filed by UCO Bank/Financial Creditor under section 7(1) of the Insolvency and Bankruptcy Code, 2016 (IBC) read with rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, against the Corporate Debtor, for an amount of default of Rs. 8,46,46,65,395/-. The date of default mentioned therein is 12.09.2023/21.09.2023.

**4.** ***Submissions on behalf of the Financial Creditor:***

**i.** The CD was incorporated on the 18th Day of June, 1984, as a public company limited by shares under the provisions of the Companies Act, 1956, under the name and style of "Furmanite Nicco Investment Limited." Name of the Corporate Debtor was changed to its present name, with principal business set out in the MoA that of an investment company and to invest in and acquire and hold and otherwise deal in shares, stocks and debentures.

**ii.** CD was sanctioned/granted inter-alia the working capital facilities both fund based and non-fund based for meeting the part of the working capital needs of the Borrower in addition to/in replacement of the existing facilities and replacement of certain other facilities on contractual terms in the proportion as mentioned in the Working Capital Consortium Agreement dated 29th June, 2001, having total limits of Rs. 30 crores by the applicant herein over and above the limits provided by other consortium members.

**iii.** Soon thereafter, the business of the CD saw an overall decline especially in the year 2003-04 and 2004-05. And as such the CD proposed a Corporate Debt Restructuring (CDR) to the CDR cell but the same was not accepted.

**iv.** In the meantime, the RBI on July 26, 2004, issued circular bearing no. DNBS RO.KOL.NO.R-100/05.01654/2004-05, and imposed prohibition under section 45MB(1) & (2) of the RBI Act, 1934, on the CD from accepting and/or renewal of deposits and also from alienation of assets by way of sale, transfer, creation of charge/mortgage or deal in any manner with its property and assets without written permission of RBI.

**v.** The FC herein along with other consortium members filed an application under section 19 of Recovery of Debts Due to Banks and Financial Instruments Act,

1993, before the Ld. DRT-I, Kolkata and the same was numbered as O.A. 118 of 2005 inter alia praying for recovery of sum of Rs. 119.23 Crore.

**vi.** Thereafter, the CD made various OTS proposals over the years, particularly between 2013 to 2024, acknowledging the debt as following :

| **Date** | **Amount (In Crore)** |
|---|---|
| 18.06.2013 | 25.00 |
| 18.08.2016 | 27.62 |
| 28.08.2018 | 27.62 |
| 24.01.2020 | 27.62 |
| 31.08.2021 | 27.62 |
| 12.09.2023 | 27.68 |
| 13.05.2024 | 29.00 |
| 09.12.2024 | 33.00 |

Therefore, the last date of acknowledging the debt by the CD is 09.12.2024 and the petition was filed on 13.03.2025, which is well within limitation.

**5.** ***Submissions on behalf of the Corporate Debtor :***

**(i) Section 7 petition filed against a financial service provider –barred under the law :**

i. The Corporate Debtor was initially incorporated in the name and style of 'Furmanite Nicco Investment Limited" in the year 1984.

j. In the year 1989, UCO Bank, the Petitioner herein decided to set up a Non-Banking Financial Company (NBFC) with Furmanite Nicco Investment Limited and it was decided that UCO Bank will also have 30% shareholding in Furmanite Nicco Investment Limited.

k. Accordingly, in the minutes of the meeting of the Board of Directors of the CD (then known as "Furmanite Nicco Investment Limited") held on 13.05.1989 it was agreed and resolved to issue and allot 4,50,000 fully Paid up Equity Shares in the CD to UCO Bank and in this connection UCO Bank vide its letter dated 12.05.1989 deposited the purchase consideration of Rs. 45 lakhs. It was also agreed that both Nicco and UCO Bank will each have two nominee Directors on the Board.

l. Thereafter pursuant to the necessary resolutions passed in 1989, the name of the CD changed from Furmanite Nicco Investment Limited Nicco Uco Financial Services Ltd. Vide letter dated 01.06.1989, the Assistant Registrar of Companies, West Bengal certified the name change of the CD to Nicco Uco Financial Services Ltd.

m. Thereafter Reserve Bank of India issued the certificate of Registration in favour of the CD [then known as Nicco Uco Financial Services Ltd] to carry on the business of NBFC on 28th April, 1998.

n. Further due to corporate actions of amalgamations and mergers in 1999, the name of the CD changed to Nicco Uco Alliance Credit Limited (being the present name of the CD).

o. Thus, the name 'Furmanite Nicco Investment Ltd.' was first changed to Nicco Uco Financial Services Ltd. on 01.06.1989 and thereafter to Nicco Uco Alliance Credit Ltd on 10.05.1999.

p. The CD was enjoying credit facilities from certain banks on stand alone arrangements. However in 2001, pursuant to a working capital consortium agreement executed on 29th June 2001, the CD came within the purview of the Consortium arrangement.

q. The Company was doing very good business as a NBFC in the areas of Hire purchase/lease, Inter-corporate deposit, Merchant banking and International banking till the year 2002.

r. Thereafter due to global recession all over the world, all the NBFC companies had faced severe decline in their business, as a result, in the year 2003-04, the Corporate Debtor had incurred huge loss for the first time.

s. As the Corporate Debtor was not doing any business, it's financial condition started worsening, the Corporate Debtor was unable to maintain the liquid fund ratio as per the requirement of RBI, hence, RBI issued a circular on 26th

July 2004 and imposed prohibition under section MB (1) and (2) of the RBI Act 1934 on the CD from interalia accepting and/or renewal of deposits without the written permission of RBI. The aforesaid is an admitted fact and the same is stated and also relied upon by the bank in the DRT OA petition, annexed with this instant section 7 petition.

t. Subsequently, the RBI vide its press release dated 7th April 2005 notified that the license issued to the CD to carry on the business of NBFC has been cancelled on 6th April 2005 under the powers conferred on RBI vide section 45 IA of RBI Act 1934.

u. Against the order of Reserve Bank of India cancelling the NBFC license, the CD preferred an Appeal on 15.04.2005 before the Appellate Authority for NBFC under the Ministry of Finance, Banking Division, Government of India. This Appeal is still pending and subsisting as the Response from the RTI filed by the CD seeking status of the 2005 appeal is still pending. Further, since there is no positive response from the RTI, the CD has also filed an appeal from the RTI Application. Such appeal is also pending as on date. Though the appeal before the Appellate Authority for NBFC under the Ministry of Finance, Banking Division, Government of India has been filed in 2005, there is no adjudication of the said appeal.

v. Default if any, would have occurred in the year 2004. This can be proven as seen the from the OA filed by the bank which is annexed to this Application, wherein in the chart shown in paragraph 34, they admit that the dues of the bank

fell due on 1.04.2004. It is stated that during the date on which debt fell due, the Corporate Debtor was an NBFC.

w. It is a settled principle of law that the alleged date on which the amount became due, if any, the CD was having a valid and active registration/certificate carry on the business of NBFC.

x. It is also a settled principle of law that even as on date of loan being disbursed or date of default, the CD was having valid financial service provider license, then also IBC proceedings will not be successful even if the license is cancelled subsequently.

y. Therefore, the Corporate Debtor, being a financial service provider outside the scope of the IBC, and no application under Section 7 can be initiated against it. I say that the Application in light of such fact, is not maintainable and should be dismissed with cost at the outset.

**(ii) Barred by Limitation :**

z. It is stated that the original section 7 Petition filed by the Applicant (which was served on the CD on 13/03/2025) did not mention any Date of Default. In the defect cured section 7 Petition (which was served on the CD on 11th May 2025), the date of default has been handwritten as 12.09.2023.

aa. The CD vehemently objects to omission of such a vital information which is the crux of the petition which was not there in the originally served copy and then hand inserted. It is stated that additional information has been added after the document has been notarized by a notary

public. The originally notarized petition dated 13th March 2025 did not contain the date of default. There is no stamp of re-notarization. Hence the entire petition has lost its sanctity. It is urged that such corrections or modifications cannot be done after filing without the leave of this Hon'ble Tribunal or the leave of the Ld. Registrar of NCLT, Kolkata Bench. Therefor this Hon'ble Tribunal should take strict note of the illegal acts of the Petitioner Bank of tampering with original petition after the same is notarized.

bb. Further that there is no document or pleading in the entire Petition to substantiate this alleged date of default of 12.09.2023/21.09.2023.

cc. That the Company started showing negative net-worth from the financial year 2003-04. The CD started defaulting in servicing interest and in repayment from 2004. Hence, the CD first defaulted in 2004.

dd. It is a settled principle of law that the date when the first default in service of interest or first default in repayment of the credit facilities happens, that has to be considered as the Date of Default.

ee. The CD would submit that even the Petitioner Bank filed its proceedings in DRT under Section 19 of the DRT Act in 2005. Thus, the Bank also acknowledges that the defaults in servicing interest or in repayment of credit facilities started from 2004. Thus, the Date of Default has to be 01.04.2004, as reflected in the OA filed by the Bank and not as inserted later.

ff. Further though no document is available with the CD, the CD was declared NPA by the Petitioner Bank on 31.3.2004 itself. Hence, it further confirms that the Date of Default is either 31.3.2004 or 01.04.2004.

gg. The instant section 7 Application is thus squarely barred by the law of limitation. As per Article 137 of the Limitation Act, 1963, which applies to proceedings under the IBC, the limitation period for filing an application under Section 7 is three years from the date of default.

hh. That the date of 12.09.2023/21.09.2023 has been conveniently mentioned by the Bank, possibly because an OTS (One-Time Settlement) proposal was given by the CD to the Consortium of Banks on that date. It is pertinent to state that the said OTS proposal was rejected. Hence, merely giving a proposal does not constitute Date of default in any manner.

ii. The CD would further assent that the 1st OTS proposal submitted by the CD was on 18/06/2013 (Rs. 25.00 Crore), 2nd proposal was on 18/08/2016 (Rs.27.62 Crore); 3rd proposal was on 28/08/2018 (Rs. 27.62 Crore); 4th proposal was on 24/01/2020 (Rs. 27.62 Crore); 5th proposal was on 31/08/2021 (Rs. 27.62 Crore); 6th proposal was on 12/09/2023 (Rs. 27.68 Crore); 7th proposal was on 13/05/2024 (Rs 29.00 Crore) and 8th and final proposal was on 09/12/2024 (Rs. 33.00 Crore). If the mere act of submitting an OTS proposal is being construed by the Petitioner Bank as the date of default, then the first OTS

proposal submitted by the CD on 18th June, 2013, should have been considered and construed as the Date of Default.

jj. It is stated that the unapplied Interest has also been calculated on and from 1st April 2004 and from the interest statements appearing at pages 471 to 476 of the section 7 petition shows that just interest has been added without any repayments of credit facilities or servicing of interests. Unapplied interest is calculated and imposed only after NPA has been declared.

kk. The application itself discloses that the alleged date of default is 01.04.2004, as per the OA filed by the Bank. The limitation period, therefore, expired on 01.04.2007. There is no valid acknowledgment under section 18 of the Limitation Act, 1908, on record to extend the limitation period. The application, filed in 2025, is hopelessly and palpably time-barred and liable to be dismissed.

ll. The alleged date of default as mentioned in the petition as 12.09.2023/21.09.2023 mentioned in the revised Petition appears to have been fabricated by the Financial Creditor to overcome the limitation bar. This date is not supported by any contemporaneous document or acknowledgment of debt.

mm. Moreover, an OTS proposal does not constitute an acknowledgment of debt under Section 18 of the Limitation Act 1963. Therefore, the alleged date of default of 12.09.2023/21.09.2023 is irrelevant and untenable in law.

nn. Further it is another settled principle of law that mere pendency of OA in DRT, does not extend limitation or

does not exclude any period for computation of limitation to file the section 7 petition.

oo. Hence, considering all of the above aspects, the instant section 7 Petition is hopelessly barred by the laws of limitation.

pp. Further all documents and annexures relied upon in the section 7 petition is of 2004 and 2005. There is no subsequent document showing or any explanation how the limitation aspect is extended till 2025.

**6. *Rejoinder/Reply on behalf of the Financial Creditor :***

Per Contra, Financial Creditor would oppose the contentions of the Corporate Debtor on the following grounds :

**(i) The petition is maintainable as the CD is not a Financial Service Provider (FSP) :**

1. It is stated that the Corporate Debtor's primary objection that it is a "Financial Service Provider" (FSP) and hence insulated from proceedings under the IBC is wholly misconceived and legally untenable.

a) It is an admitted position that the Reserve Bank of India (RBI) cancelled the Certificate of Registration of the Corporate Debtor to carry on the business of a Non-Banking Financial Company (NBFC) vide its order dated 6th April 2005 (Annexure 'B' to the Reply).

b) The bar under Section 3(7) of the IBC applies to an entity that is currently engaged in providing financial services under a valid license or registration. The Corporate Debtor has not been a licensed NBFC for nearly two decades. The mere fact that it was an NBFC at the time of the loan disbursement or original default is irrelevant to its current status.

c) The plea regarding a purported appeal filed in 2005 being "pending" is a sham and a red herring. The Corporate Debtor's own documents (Annexure 'D' to the Reply) show that their RTI applications have yielded no confirmation of any such pending appeal.

d) The CD has ceased to be a financial service provider since 2005. It is now merely a corporate person against whom the IBC can be invoked. The attempt to resurrect a defunct 20 year old appeal through RTIs is a clear abuse of the process of law.

2. Even assuming that the Corporate Debtor was an NBFC in 2004, it has not been engaged in any financial service activities since 2005. For the past 20 years, it has functioned merely as an investment company, which does not qualify as "financial service" under Section 3(16) of the IBC.

3. The exclusion of financial service providers from the IBC under Section 3(7) read with Section 3(17) applies only to entities that are currently authorized by a financial sector

regulator and actively engaged in providing financial services.

**(ii) The Petition is not barred by Limitation :**

1. The Corporate Debtor's contention that the petition is barred by limitation is emphatically denied. The continuous and unequivocal acknowledgments of debt made by the Corporate Debtor itself have repeatedly extended the period of limitation under Section 18 of the Limitation Act, 1963.

a) While the original default occurred in 2004, the Corporate Debtor has, through its own correspondence, prevented the debt from becoming time-barred. The date of default as mentioned in the application is 12.09.2023/21.09.2023, which is based on the Corporate Debtor's submission of OTS proposal on that date, constituting a clear acknowledgment of debt.

b) The Corporate Debtor has admitted to making no less than eight One-Time Settlement (OTS) proposals to the consortium of banks between June 2013 and December 2024. These letters are annexed as Annexure 'E' to the Corporate Debtor's own reply. Each of these proposals contains a clear and unambiguous admission of the existence of the outstanding debt owed to the Bank and other consortium member.

c) The list of acknowledgements includes, but is not limited to:

- OTS Proposal dated 18/06/2013
- OTS Proposal dated 18/08/2016

- OTS Proposal dated 28/08/2018
- OTS Proposal dated 24/01/2020
- OTS Proposal dated 31/08/2021
- OTS Proposal dated 12/09/2023
- OTS Proposal dated 13/05/2024
- Final OTS Proposal dated 09/12/2024 for Rs. 33.00 Crores.

d) It is settled law, as laid down by the Hon'ble Supreme Court in cases like ***Asset Reconstruction Company (India) Ltd. v. Bishal Jaiswal, (2021) 6 SCC 366*** and ***Dena Bank vs. C. Shivakumar Reddy, (2021) 10 SCC 330***, that an acknowledgment of liability in balance sheets, OTS proposals, or other communications resets the limitation period. Each OTS proposal created a fresh period of limitation of three years.

e) As held by the Hon'ble Supreme Court in ***Asset Reconstruction Company (India) Ltd. v. Tulip Star Hotels Ltd.***, reported in ***(2022) ibclaw.in 94 SC*** each acknowledgment of debt extends the limitation period by three years from the date of such acknowledgment.

f) The last such acknowledgment was made on 9th December 2024. The present petition, filed in 2025, is therefore well within the fresh period of limitation triggered by the said acknowledgment. The Corporate Debtor's argument on limitation is, therefore, devoid of any merit and deserves to be rejected outright.

g) The argument that a rejected OTS proposal cannot be an acknowledgment is fallacious. The rejection of the

terms or settlement does not negate the admission of liability contained within the proposal itself. The act of offering to pay a certain sum to settle a larger debt is in itself the most potent form of acknowledging that a debt exists.

2. The CD cannot now turn around and claim that no debt exists after repeatedly acknowledging the same through multiple OTS proposals over a decade. This conduct constitutes approbate and reprobate, which is not permissible in law.

**(iii) Other Frivolous Objections :**

1. The objection regarding the handwritten "Date of Default" is a hyper-technical and frivolous plea. The date of default is a legal concept. While the account first became NPA in 2004, the cause of action to file the present petition was continuously revived by the acknowledgments. The date mentioned, 12.09.2023/21.09.2023, is subsequent to the acknowledgment dated 12.09.2023/21.09.2023 and is well within the limitation period. In any event, the petition is filed within three years of the last acknowledgment dated 09.12.2024. This objection is merely a smokescreen.
2. Alternative Dates Available: Even if (though not addmitted/accepted) 12.09.2023/21.09.2023 is not accepted, the Financial Creditor has multiple alternative dates of acknowledgment including:
    - OTS proposal dated 13.05.2024
    - OTS proposal dated 09.12.2024

- Balance sheet entries acknowledging the debt

3. The Corporate Debtor cannot escape liability by questioning the date when it has consistently acknowledged the debt through various means over the years.

4. The allegation that the petition is filed with mala fide intent is baseless and scandalous. The Bank and the consortium have shown extraordinary patience by engaging in settlement talks for over a decade. It is the Corporate Debtor that has repeatedly failed to honour its own OTS proposals, forcing the Bank to invoke its statutory remedy under the IBC as a last resort for resolution.

5. The Corporate Debtor's objection regarding handwritten addition of the date of default is legally unsustainable:

   (a) No Legal Invalidity: Handwritten corrections or additions to documents do not render them invalid provided they are made in good faith to rectify omissions.

   (b) No Re-notarization Required: There is no legal requirement under Indian law mandating re-notarization for minor corrections or additions to documents.

   (c) Substance Over Form: The Corporate Debtor has not disputed the quantum of debt or the existence of the debt. The objection is purely technical and aimed at defeating the legitimate claim of the Financial Creditor.

(d) Good Faith Addition: The date was added to cure a manifest defect in the original petition and was done transparently without any attempt to conceal or mislead.

**7.** We have heard the arguments forwarded by all the parties.

**8.** ***Analysis and Findings :***

The discernible facts :

- **ON LIMITATION**

**(i)** Evidently and admittedly as per categorical assertion of the Financial Creditor, the Original default is of 2004.

**(ii)** The petition has been preferred in 2025.

**(iii)** To cover the issue of maintainability on the ground of limitation, the FC has resorted to OTS proposals as under :

- OTS Proposal dated 18/06/2013
- OTS Proposal dated 18/08/2016
- OTS Proposal dated 28/08/2018
- OTS Proposal dated 24/01/2020
- OTS Proposal dated 31/08/2021
- OTS Proposal dated 12/09/2023
- OTS Proposal dated 13/05/2024
- Final OTS Proposal dated 09/12/2024

It is evident that between the original default of 2004 and the 1st OTS Proposal of 2013, there is a huge gap of 9 years. The FC is conspicuous by its silence on explaining how to

bridge the gap of 9 years to bring the petition within the prescribed limitation period of 3 years (Article 137 of the Limitation Act).

- **ON ACKNOWLEDGMENT:**

It is trite, axiomatic and settled law that OTS proposals would constitute acknowledgement of debt to extend limitation, but only if the OTS proposal is given within the period of 3 years from the date of default, i.e. before the period of limitation expires. [***Dena Bank vs. C. Shivakumar Reddy, (2021) 10 SCC 330*** *and* **Sesh Nath Singh and Anr. v. Baidyabati Sheoraphuli Co-Operative Bank Ltd and Anr., *(2021) ibclaw.in 49 SC***]

In the case of ***Small Industries Development Bank of India v. Sh. Krishnakant Bagree,*** reported in (2025) ibclaw.in 2314 NCLT, the NCLT Indore Bench held the following :

> *"**21.** We have noted that the Applicant has attempted to rely on the One-Time Settlement (OTS) offer dated 16.06.2023 as an acknowledgment to extend limitation. However, as held **in Jignesh Shah & Anr. v. Union of India (2019) 10 SCC 750**, a mere proposal for settlement without acceptance does not amount to acknowledgment of debt under Section 18 of the Limitation Act, 1963. Further, **in M/s. State Bank of India v. M/s. Hackbridge Hewittic and Easun Limited (2023), the NCLT Chennai Bench**, held that submitting an OTS proposal within the limitation period constitutes an acknowledgment of debt. Similarly, **in Dena Bank v. C. Shivakumar Reddy (2021) 10 SCC 330**, the Hon'ble Supreme Court held that an offer of One Time Settlement of*

*a live claim, made within the period of limitation, can be construed as an acknowledgment to attract Section 18 of the Limitation Act.*

***22.*** *Section 18 of the Limitation Act, 1963, stipulates that a fresh period of limitation commences from the date when party against whom the payment is sought to be recovered makes an acknowledgment in writing and signs it. However, Section 18 categorically clarifies that it only extends the period limitation provided the acknowledgement is made within the already subsisting period of limitation. If a party makes an acknowledgment in terms of Section 18 beyond the period of limitation, then such a case would not be covered by Section 18, and the debt would be time-barred. Similarly, in the case of* ***Sri Kapaleswarar Temple v. T. Tirunavukarasu (AIR 1975 MADRAS 164, 1987 MADLW 647)****, it was observed that an acknowledgement under Section 18 of the Limitation Act must be made on or before the date of expiry of the limitation period to give effect to a fresh lease of life to the enforceability of the debt. The relevant extract of Section 18 is below:"*

**(emphasis added)**

We further rely on the judgment passed by the Hon'ble NCLAT, New Delhi in ***Kishanlal Likhmichand Bothra v. Canara Bank,*** reported in (2021) ibclaw.in 152 NCLAT, wherein Hon'ble NCLAT while referring to Sesh Nath Singh, held as follows :

"12. As regards limitation, reference may be made to the Judgment in the matter of ***"Sesh Nath Singh & Anr. Vs. Baidyabati Sheoraphuli Co-Operative bank Ltd and Anr."*** *Civil Appeal No. 9198 Of 2019,* passed by the Hon'ble Supreme Court of India on

22nd March, 2021. Hon'ble Supreme Court of India discussed the various Judgments passed by the Hon'ble Supreme Court of India with regard to limitation and which are now being relied on by the Learned Counsel for the Appellant and observed in Paragraphs 66, 88 and 92 of the Judgment as under:

*"66. Similarly under Section 18 of the Limitation Act, an acknowledgement of present subsisting liability, made in writing in respect of any right claimed by the opposite party and signed by the party against whom the right is claimed, has the effect of commencing of a fresh period of limitation, from the date on which the acknowledgment is signed. However, the acknowledgment must be made before the period of limitation expires.*

*.....*
*.....*

*88. An Adjudicating Authority under the IBC is not a substitute forum for a collection of debt in the sense it cannot reopen debts which are barred by law, or debts, recovery whereof have become time barred. The Adjudicating Authority does not resolve disputes, in the manner of suits, arbitrations and similar proceedings. However, the ultimate object of an application under Section 7 or 9 of the IBC is the realization of a 'debt' by invocation of the Insolvency Resolution Process. In any case, since the cause of action for initiation of an application, whether under Section 7 or under Section 9 of the IBC, is default on the part of the Corporate Debtor, and the provisions of the Limitation Act 1963, as far as may be, have been applied to proceedings under the IBC, there is no reason why Section 14 or 18 of the Limitation Act would not apply for the purpose of computation of the period of limitation.*

> ……
> ……
>
> *92. In other words, the provisions of the Limitation Act would apply mutatis mutandis to proceedings under the IBC in the NCLT/ NCLAT. To quote Shah J. in New India Sugar Mill Limited v. Commissioner of Sales Tax, Bihar, "It is a recognised rule of interpretation of statutes that expression used therein should ordinarily be understood in a sense in which they best harmonise with the object of the statute, and which effectuate the object of the Legislature"."*
>
> 13. Considering the above Judgment of the Hon'ble Supreme Court of India, we have no difficulty to state that Section 18 of the Limitation Act is applicable to proceedings under IBC and that <u>if there is acknowledgment of debt in the balance-sheets or the OTS Proposal, the period of limitation would get extended if the acknowledgment is made before the period of limitation expires.</u> Reference may be made to the Judgment in the matter of ***"Mahabir Cold Storage Vs. Commissioner of Income Tax, (1991) 188 ITR 91*** and Judgment in the matter of ***"A.V. Murthy Vs. B.S. Nagabasavanna" (2002) 2 SCC 642*** where Hon'ble Supreme Court considered entries in Books of Accounts/Balance Sheets and observed that entries in such records may amount to Acknowledgment of debt."
>
> **(emphasis added)**

- **<u>REVIVAL OF A TIME BARRED DEBT:</u>**

Taking the case of the petitioner FC at the highest, that the OTS would revive a time barred debt we would note that Section 25 of the Indian Contract Act, 1872, reads as under:

> ***Section 25. Agreement without consideration, void, unless it is in writing and registered, or is <u>a promise to compensate for something done, or is a promise to pay a debt barred by limitation law.</u>***
>
> *An agreement made without consideration is void, unless*
>
> *(1) it is expressed in writing and registered under the law for the time being in force for the registration of [documents], and is made on account of natural love and affection between parties standing in a near relation to each other ; or unless*
>
> *(2) it is a promise to compensate, wholly or in part, a person who has already voluntarily done something for the promisor, or something which the promisor was legally compellable to do; or unless;*
>
> *<u>(3) it is a promise, made in writing and signed by the person to be charged therewith, or by his agent generally or specially authorized in that behalf, to pay wholly or in part a debt of which the creditor might have enforced payment but for the law for the limitation of suits.</u>*
>
> *In any of these cases, such an agreement is a contract.*

Implication of the aforesaid provision is noted in ***Manju Agarwal v. Prayag Polytech Pvt Ltd*** reported in **2022 SCC OnLine Del 3596**, where Hon'ble Delhi HC while explaining the true import of Section 25(3) of the Indian Contract Act 1872, has noted as under:

> "*20. A reading of the aforesaid paragraphs would show that a written promise to pay a time barred debt is a valid contract in law and such a promise can form an independent basis for a suit. Noting the distinction between the acknowledgement under Section 18 of the Limitation Act, 1963 and a promise under Section 25(3) of the Contract Act, the Supreme Court observed that acknowledgement under Section 18 of the Limitation Act has to be within the period of limitation and need not be accompanied by a promise to pay. On the other hand, Section 25(3) of the Indian Contract Act is attracted only when there is an express promise to pay a time-barred debt and the said promise should be clear and unconditional and can be inferred on scrutinising the documents".*
>
> (**Emphasis added)**

Further, for an agreement to be enforceable under section 25(3) of Indian Contract Act it must refer to a debt that the creditor would enforce but for the limitation period and there must be a distinct promise to pay, which can be express or implied but should be clear and unequivocal. In **M/S.Saravana Global Holdings Ltd vs N.Jayamurugan** reported in (2023) ibclaw.in 623 HC it has been held that**:**

> ***"****20. The **remedy provided in law** to the creditors for recovery of their monies **comes with an expiration date**. When the time provided under the law of limitation for recovering such debt lapses,*

*the debt becomes barred due to passage of excess time. Such debts being barred by the statute of limitation, their liability still subsists even though the remedy perishes. This principle is based on ethical principle that a debt does not extinguish and facts of a case may stop operation of the clock of limitation fixed by law or entirely revive a debt barred by the law of limitation, as set out in Section 18 of the Limitation Act, 1963 ("Limitation Act") and Section 25 (3) of the Indian Contract Act ("Contract Act"), respectively.*

xxx xxx xxx

***Consideration is an essential requisite of a contract.*** *However, Section 25 of the Contract Act provides certain* ***exceptions when agreements without any consideration are deemed to be valid and binding****. One such exception is Section 25 (3) of the Indian Contract Act, 1872, wherein it is considered a valid contract when a person to be charged or his agent, makes a promise to the creditor, in writing, to pay the debt partly or wholly, of which the creditor might have enforced payment, but the debt has become barred due to the law of limitation.*

xxx xxx xxx

*(3) it is a promise, made in writing and signed by the person to be charged therewith, or by his agent generally or specially authorized in that behalf, to pay wholly or in part a debt of which the creditor might have enforced payment but for the law for the limitation of suits."*

*23. In order to satisfy the requirements of Section 25 (3) of the Indian Contract Act, the following essentials must be present:*

*a) There must be a promise to pay a debt;*

> *b) The creditor might have enforced payment but the debt is barred by limitation;*
> *c) The promise must be made in writing, and;*
> *d) It should be signed by the person to be charged therewith or his agent.*
>
> *24. In the decision relied upon by the learned counsel for the petitioner in the case of N.Ethirajulu Naidu Vs. K.R.Chinnikrishnan Chettiar reported in AIR 1975 Mad 333, it has been held by the Division Bench of this Court that an agreement to be valid under Section 25 (3) of the Indian Contract Act requires an express promise made in writing and signed by the person to be charged therewith. As per the said decision, nothing short of an express promise will provide a fresh period of limitation and that an implied promise is not sufficient.*
>
> **(emphasis added)**

We have noted the words that Section 25(3) of the Contract Act employs. It allows enforcement of an agreement in the nature of "a written promise to pay a time barred debt", even after the original limitation has expired. The new promise would then establish a fresh period limitation which is three years from the date of promise within which a creditor can file a suit, provided it is filed within 3 years of such promise. Here also, a mere proposal to pay a time barred debt will not constitute an acknowledgment under section 18 of the Limitation unless it is formally accepted, [***Jignesh Shah supra***], because what section 25 says is an 'agreement' i.e.

a contract without any consideration, which is then essentially a contract and not a mere 'proposal'.

Such "written promise to pay a time barred debt" which gives rise to a fresh cause of action, entitles a creditor to sue by way of a freshly instituted suit. Hence the creditor can approach appropriate forum for its remedy.

However, such proposals would constitute revival of a time barred debt only when they are accepted and is in the nature of an enforceable contract and not when they are rejected. Hence on that count also the plea of revival of a time barred debt does not get substantiated.

**9.** In view of the enumerations above, **CP (IB) 129/KB/2025**, fails and is dismissed.

**10.** **I.A.(IB) No. 1211/KB/2025**, being the demurrer to CP(IB) 129/KB/2025, is also accordingly disposed of.

**11.** Certified copies of this order, if applied for with the Registry of this Adjudicating Authority, be supplied to the parties upon compliance with all requisite formalities.

**Cmde Siddharth Mishra**
**Member (Technical)**

**Bidisha Banerjee**
**Member (Judicial)**

This Order is signed on this the **18th** day of **December, 2025.**

Arnab M. [LRA]